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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Sergio Khorosh and Vera Khorosh

-against-

US Customs and Border Protection

Defendant

ORDER

08 Cv 543 (AKH)

WHEREAS the parties in this matter agree that Immigrations and Customs Enforcement is a necessary party to this action and is now not a named party, and

WHEREAS there remains in the possession of the Defendant United States currency and property that is claimed by the Plaintiff, and

WHEREAS if the Defendant refuses to return the demanded currency and property, there are several questions of fact and law that need to be resolved prior to a trial in this matter, it is hereby

ORDERED that Immigration and Customs Enforcement is added as a party-defendant in this matter, and it is further

ORDERED that this matter is converted into an action seeking the return of currency under 18 USC 983(e) and property under FRCP 41(g), and it is further

ORDERED that the Defendants will notify the Plaintiff and the Court within 30 days of this order what property and currency it is holding and if such property will be returned to the Plaintiff or if the Defendants will refuse to return such property and the grounds for such refusal, and it is further

ORDERED that the property the Defendants agree to return shall in fact be returned and delivered to the office of counsel for the Plaintiff within 60 days of the date of this order, and it is further

ORDERED that the parties will submit legal argument on the grounds proffered by the Defendants for the refusal to return such property and/or currency and on the question of "What constitutes a "seizure" under the law: Is it the actual taking of the property or legal action seeking forfeiture of property?" and any other related issue within 120 days of this order.

DATED: 7/7/08


Hon. Alvin K. Hellerstein, USDJ